



Approved for use through 03/31/2007. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

666112.0132

(80408.0012)

First named inventor: SWT A. MOSKOWITZ et al.

Application No.: 09/657,181

Art Unit: 2857

Filed: September 7, 2000

Examiner: Carol SW Tsa

Title: Method and Device for Monitoring and  
Analyzing Signals

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ 750<sup>00</sup>~~xx~~ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Response to Non-Final Office Action (identify type of reply):

☒ has been filed previously on November 22, 2004  
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

12/01/2006 AWONDAF1 00000038 09657181

01 FC:2453

750.00 OP

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Scott Moskowitz  
Signature

November 20, 2006  
Date

SCOTT MOSKOWITZ  
Typed or printed name

16711 COLLINS AVE, #2505  
Address

SUNNY ISLES BEACH, FL 33160  
Address

Registration Number, if applicable  
(305) 956-9041  
Telephone Number

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Statement under 37 CFR 3.73(b) SB/96; original 37 CFR 3.73(b) 12/29/05; original

OFFICE ACTION RESPONSE FILED  
NOV. 22, 2004; OFFICE ACTION  
RESPONSE FILED NOVEMBER 22, 2004  
WITH ADDITIONAL SIGNATURE.

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

November 20, 2006  
Date

Scott Moskowitz  
Signature  
SCOTT MOSKOWITZ  
Typed or printed name of person signing certificate



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Approved for use through 01/31/2007. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 750.00

### Complete if Known

Application Number	09/657,181
Filing Date	September 7, 2006
First Named Inventor	Scott A. MOSKOWITZ et al.
Examiner Name	Carol S W TSAI
Art Unit	2857
Attorney Docket No.	80408.0012

### METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☐ Deposit Account Deposit Account Number: \_\_\_\_\_ Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims      Extra Claims      Fee (\$)      Fee Paid (\$)

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims      Extra Claims      Fee (\$)      Fee Paid (\$)

- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets      Extra Sheets      Number of each additional 50 or fraction thereof      Fee (\$)      Fee Paid (\$)

- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount) Fees Paid (\$)

Other (e.g., late filing surcharge): Petition for Revival of an Application for Patent Abandoned Unintentionally \$750.00

### SUBMITTED BY

Signature	<i>Scott Moskowitz</i>	Registration No. (Attorney/Agent)	Telephone 305 956 9041
Name (Print/Type)	Scott MOSKOWITZ		Date November 28, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Application Number	09/657,181
Filing Date	September 7, 2000
First Named Inventor	Scott A. MOSKOWITZ
Art Unit	2857
Examiner Name	Carol S W Tsai
Attorney Docket Number	80408.0012

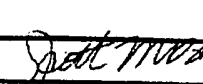
Total Number of Pages in This Submission

**ENCLOSURES** (Check all that apply)

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC)<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Revocation of Power of Attorney (1 page) |
|---|---|---|

Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Scott A. Moskowitz
Signature	
Date	November 22, 2004

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name

Signature

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 55.00

## Complete if Known

Application Number 09/657,181  
Filing Date September 7, 2000  
First Named Inventor Scott A. MOSKOWITZ  
Examiner Name Carol S W Tsai  
Art Unit 2857  
Attorney Docket No. 80408.0012

## METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$ ) 0

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ ) 0

\*\*or number previously paid. If greater. For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 85	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	55.00
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1808 180	1808 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 335	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 55.00

## SUBMITTED BY

Name (Print/Type) Scott A. Moskowitz

Signature

Registration No.  
(Attorney/Agent)

(Complete if applicable)

Telephone 305-956-9041

Date

November 22, 2004

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.  
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 09/657,181 Confirmation No. 1907  
Applicant : Scott A. Moskowitz, et al.  
Filed : September 7, 2000  
TC/A.U. : 2857  
Examiner : Carol S W Tsai  
  
Docket No. : 80408.0012  
Customer No. : 29693

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR EXTENSION OF TIME  
AND RESPONSE TO OFFICE ACTION**

Sir:

This application is U.S. Patent Application No. 09/657,181, filed September 7, 2000.  
In response to the non-final Office Action, dated July 22, 2004, Applicants submit the  
following response:

**Request for Extension of Time**

Applicants hereby request a one (1) month extension of time to reply to the Office  
Action dated July 22, 2004. The time for response is therefore extended up to and  
including November 22, 2004. A credit card payment form in the amount of \$55.00 to cover  
the required fee is enclosed with this filing.

**REMARKS/ARGUMENTS**

**Rejections under Double Patenting**

**§ 101 Rejections based on a judicially created doctrine of provisional obviousness-type double-patenting**

Applicants respectfully traverse the Examiner's assertion that the instant invention's Claim 1 (and all claims depending therefrom) is not patently distinct from co-pending Application No. 09/671,739 Claim 1. While Applicants may disagree with the premise of the rejection, if Claim 1 of US Patent Application No. 09/671,739 is issued as a patent, Applicants will file a terminal disclaimer at that time.

**Rejections under 35 U.S.C. § 112 first paragraph must assess whether there is written description to support the claim language**

Claims 1-25

Applicants respectfully traverse the rejection of claims 1-25 under 35 USC §. 112 first paragraph.

See MPEP § 2163(II)(A)(3)(b), at 2100-165 ("To comply with the written description requirement of 35 USC § 112, para. 1, ... each **claim limitation** must be expressly, implicitly, or inherently supported in the originally filed disclosure") (emphasis added); see also *Martin v. Mayer*, 823 F.2d 500, 505 (Fed. Cir. 1987) ("[The written description analysis] is 'not a question of whether one skilled in the art might be able to construct the patentee's device from the teachings of the disclosure. ... Rather, it is a question whether the application necessarily discloses that particular device.'" (quoting *Jepson v. Coleman*, 314 F.2d 533, 536, 136 U.S.P.Q. (BNA) 647, 649-50 (CCPA 1963)). In this case, the claim limitation at issue is "query signal". Thus, "query signal" must be the focus of a "written description" analysis.

The Federal Circuit has found that the purpose of the requirement is to protect against over-reaching claims that may be added by amendment after the filing date:

Satisfaction of the description requirement insures that subject matter presented in the for of a claim subsequent to the filing date of the application was sufficiently disclosed at the time of filing so that the prima facie date of invention can be fairly held to be the filing date of the application.

*Vas-Cath Inc. V. Mahurkar*, 935 F.2d 1555 (Fed. Cir. 1991) (quoting *In re Smith and Hubin*, 481 F.2d 914 (CCPA 1973) (citations omitted)). In this case, there can be no doubt



that the claim language at issue, "query signal", was present in the application as originally filed on September 7, 2000. Accordingly, there can be no doubt that the policy behind the written description requirement is met.

It is well settled that "to satisfy the written description requirement, the disclosure as originally filed does not have to provide *in haec verba* support for the claimed subject matter at issue." *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000) (citing *Fujikawa v. Wattanasin*, 93 F.3d 1559, 1570 (Fed. Cir. 1996)) (emphasis added).

In this application, however, there is *in haec verba* support. Thus, the rejection should be withdrawn.

**Rejections under 35 U.S.C. § 112 second paragraph**

Claims 1-25

Applicants respectfully traverse the rejection of claims 1-25, 35 USC §. 112 second paragraph.

Contrary to the Examiner's assertion that "query signal" is indefinite, the term is widely understood in the art of databases. One of the most widely deployed database technologies is "SQL" meaning "structured query language". Applicants affirm that the term query signal is not repugnant to the meaning of the term "query" alone. A "query signal" as disclosed refers to the "signal" being monitored or analyzed. Indeed, Claim 1 makes this very clear when it recites [emphasis added]: "receiving at least one query signal **to be analyzed.**" In other words, a "query signal" is a signal that is being queried. Because this is made clear in at least the Summary and in the original claims, the Applicants request the rejection to be withdrawn.

MPEP § 608.01(a) "The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described, and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail."

With regards to Claim 24, the Specification teaches that the "criteria" is used by the processor in creating "an abstract", and, so, Claim 24 is merely referencing that the same criteria is shared between the "processors".

**Rejections under 35 U.S.C. § 102**

**§ 102 Rejections based on Rhoads**

Claims 1, 4-6, 8, 12, 13, and 16-20 stand rejected as allegedly anticipated by U.S. Patent No. 6,430,302 issued to Rhoads (hereafter Rhoads). (See page 4 of the Office Action).

**Claim 1, 8, and 13 (and all claims depending therefrom)**

In order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Independent Claim 1 recites, *inter alia*, [emphasis added]: "A method for monitoring and analyzing at least one signal comprising: **receiving at least one reference signal to be monitored; creating an abstract of said at least one reference signal; storing the abstract of said at least one reference signal in a reference database;** receiving at least one query signal to be analyzed; **creating an abstract of said at least one query signal; comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the abstract of said at least one reference signal.**" The 102 rejection based on Rhoads is improper for at least the reason that Rhoads fails to disclose "creating an abstract of said reference signal" and "storing the abstract of said at least one reference signal in a reference database."

In fact, Rhoads' description that, "[t]he N-bit identification word refers to a unique identification binary value ... which is the identification code placed onto the original signal ... " *Rhoads*, at col. 4, ll. 33-38 indicates *independence* from the original signal, *not* an abstract created *from* a reference signal, contrary to the Examiner's assertion. Rhoads' "N-bit identification code word" is, thus, allegedly an independent "invisible signature" encoded in such a manner as to yield a "distributable signal" *not* an abstract to be stored in a reference database, *Rhoads* at col. 38, ll. 33-38: "[b]riefly and for the sake of clarity, the phrases and terms 'signatures,' 'invisible signatures,' and 'signature codes' have been and will continue to be used to refer to the general techniques of this invention and often refer specifically to *the composite embedded code signal* as defined early on in this disclosure." Being independent from the "reference signal" Rhoads' "embedded code" cannot be equivalent with the Applicants' "abstract". Rhoads teaches away from Applicants' claim limitation: "creating an abstract of said reference signal" and "storing the abstract of said at least one reference signal in a reference database."

Second, that this identification code is encoded *into* the original signal makes it inaccessible without the original signal, *Rhoads* at col. 5 ll. 21-28, "... [t]he N-bit identification word is encoded onto the original signal by having each of the *m* bit values multiply their corresponding individual embedded code signals, the resultant being accumulated in the composite signal ... the resultant composite signal added to the original to become the distributable signal." With Rhoads there is no "query signal" from which an abstract is created. Thus, Rhoads does not teach the claim limitation: "receiving at least one query signal to be analyzed; creating an abstract of said at least one query signal; comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the

abstract of said at least one reference signal." Instead, the original signal is differenced with a suspect signal (more on this aspect below). This approach teaches away from creating abstracts based on a reference signal, storing said abstracts in a database, and comparing query signal abstracts with the reference signal abstracts in the database, contrary to the assertions of the Examiner.

Third, Rhoads' description of how his "invisible signatures" are decoded teaches away from the Applicants' invention. Rhoads allegedly relies on the embedded code signal[s] for identification, not comparisons of "reference signal abstracts" with "query signal abstracts" – no abstract is disclosed. At the very least, Rhoads' original signal[s] inherently lack the encoded invisible signature and, thus, cannot equate to the abstracts of the Applicants. In fact, Rhoads differences a "suspect signal" with the "original signal" to attempt recovery of the N-bit identification word. Why use abstracts for identification purposes if invisible signatures must first be *extracted* from the suspect signal based on a comparison with the original signal? *Rhoads* at col. 5 ll. 57-60: "[o]nce the suspect signal has been sample-spacing matched and registered to the original, the signal levels of the suspect signal should be matched in an rms sense to the signal level of the original. This can be done via a search on the parameters of offset, amplification, and gamma being optimized by using the minimum of the mean squared error between the two signals as a function of the three parameters." Additionally, *Rhoads* at col. 5 ll. 66 – col. 6 ll. 10:

The newly matched pair then has the original signal subtracted from the normalized suspect signal to produce a difference signal. The difference signal is then cross-correlated with each of the N individual embedded code signals and the peak cross-correlation value recorded. The first four bit code ('0101') is used as a calibrator both on the mean values of the

zero value and the one value, and on further registration of the two signals if a finer signal to noise ratio is desired (i.e., the optimal separation of the 0101 signal will indicate an optimal registration of the two signals and will also indicate the probable existence of the N-bit identification signal being present.)

If the original and suspect signals are compared to yield a difference signal which is then used to determine *if* the "N-bit identification signal [is] present", including use of a "0101" "calibrator", Rhoads teaches away from the Applicants' claim limitations for creation of an "abstract" from a "reference signal" for later comparison with the "abstract" of a "query signal". Rhoads discloses further examples of his decoding scheme at col. 17 ll. 35 – col. 18 ll. 5. Rhoads' approach may make recovery of the N-bit identification word impossible (more on this additional point below).

Fourth, the identification word of Rhoads is not an "abstract" but "noise," *Rhoads* at col. 17 ll. 40. Rhoads discloses several times that his N-bit identification word is akin to "noise." See *Rhoads* at col. 3 ll. 50-53; col. 15 ll. 54-57; col. 17 ll. 14-16; col. 17 ll. 61-64; col. 20 ll. 38-42; and, the lengthy description provided at col. 23 ll. 55 – col. 24 ll. 50. Because this noise becomes inherent to the original signal even comparisons with the suspect signal for decoding purposes may result in "erasing" the "embedded code." If such erasure occurs how can it be compared with a query signal abstract? Rhoads discloses the problem, "[a]t step 9, FIG. 3, if we were to subtract the 'original' with its embedded code, we would obviously be 'erasing' the code as well since the code is an integral part of the original. Fortunately, remedies do exist and identifications can still be made. However, it will

be a challenge to artisans who refine this embodiment to have the signal to noise ratio of the identification process in the pre-exposed negative case approach the signal to noise ratio of the case where the un-encoded original exists," *Rhoads* at col. 13 ll. 20-28. An "abstract", as disclosed by the Applicants, is not noise, and cannot be "erased."

Because *Rhoads* fails to disclose (1) "creating an abstract of said at least one reference signal", (2) "storing the abstract of said at least one reference signal in a reference database", and (3) "comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the abstract of said at least one reference signal" as required by Claim 1, the Section 102 rejection of Claim 1 must be withdrawn. Moreover, for the same reasons that Claim 1 is patentable over *Rhoads*, independent Claims 8 and 13 and the claims that depend from Claims 1, 8 and 13 also are patentable. Applicants request the Examiner withdraw the Section 102 rejections of Claims 1, 8, and 13, and all claims depending therefrom, based on *Rhoads*.

**Rejections under 35 U.S.C. § 103**

In order to "establish a prima facie case of obviousness, three basic criteria must be met." MPEP § 7.06.02(j). First, there must be some motivation or suggestion to modify the reference or to make the proposed combination. Second, there must be a reasonable expectation of success. "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure." MPEP § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Third, the combined references must teach or suggest all claim limitations.

**§ 103 Rejections based on Rhoads**

**Claims 21 (and all claims depending therefrom)**

Claim 21 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhoads. Examiner asserts that, "Rhoads discloses an electronic system for monitoring and analyzing at least one signal, comprising: a first input that receives at least one reference signal to be monitored, a processor that creates an abstract of each reference signal input to said first processor through said first input...", Office Action at 6, Applicants respectfully disagree.

It is unclear how the Examiner construes the term "multiprocessor" as this term is not part of the claim language. The Examiner's Official Notice regarding a combination of Rhoads with "multiprocessor" is also not clear to the Applicants. Applicants thus respectfully request clarification on the 103 rejections based on Rhoads and "multiprocessor."



As previously presented, Rhoads, allegedly discloses a method for embedding an N-bit identification word into an original signal. Decoding the N-bit identification word requires differencing the unencoded original signal and a suspect signal to yield a difference signal. This difference signal looks like noise and cannot be independently decoded. It is not an abstract nor is there any comparison between a reference signal abstract, stored in a reference database, with a query signal abstract as required by the claim limitations.

None of the claimed elements are disclosed by Rhoads, including: (1) "a first input that receives at least one reference signal to be monitored"; (2) "a first processor that creates an abstract of each reference signal input to said first processor through said first input"; (3) "a second input that receives at least one query signal to be analyzed, (4) "a second processor that creates an abstract of each query signal"; (5) "a reference database that stores abstracts of each at least one reference signal"; and, (6) "a comparing device that compares an abstract of said at least one query signal to the abstracts stored in the reference database to determine if the abstract of said at least one query signal matches any of the stored abstracts." Rhoads does not disclose any of the claimed elements in independent Claim 21. Applicants therefore request that Examiner withdraw the Section 103 rejections of Claims 21 (and all claims that depend therefrom).

**Comments concerning Allowable Subject Matter**

Examiner explains that: "Claims 2, 3, 7, 9-11, 14, 15, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims" Office Action at Page 7.


Applicants maintain that the term "query signal" is common to the art of databases including the pervasive "SQL" or "Structured Query Language". This is the most common database in use today and at the time of the instant invention's filing was well-known to artisans.

MPEP 707.07(j) states: "When, during the examination of a *pro se* application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that claims would be allowed if incorporated in the application by amendment." Applicants are proceeding *pro se* and request clarification on the how the cited claims can be rewritten if the term "query signal" continues to be objectionable.

**Conclusion**

Applicants maintain that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicant, either by telephone or in person, would further prosecution of this application, we would welcome the opportunity for such an interview.

Respectfully submitted,



Date: November 22, 2004

By: \_\_\_\_\_  
Scott A. Moskowitz

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## United States Patent and Trademark Office

### Credit Card Payment Form

Please Read Instructions before Completing this Form

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**Payment Amount: \$ (US Dollars):** [REDACTED]

**Cardholder Signature:** [REDACTED]

**Date:** November 22, 2004

**Refund Policy:** The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The office will not refund amounts of \$25.00 or less unless a refund is specifically requested, and will not notify the payor of such amounts (37 CFR § 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

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**Daytime Phone #:** [REDACTED]

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<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 09/657,181	Application No.	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No. 80408.0012		Identify or Describe Mark	

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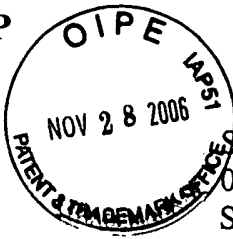
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STOP

AMENDMENT

PATENT

FILED IN PTO ON DATE-STAMPED HEREON

Applicant: Scott A. MOSKOWITZ  
Appl. No.: 09/657,181  
Filed: September 7, 2000  
Title: METHOD AND DEVICE FOR MONITORING AND ANALYZING SIGNALS  
Docket No.: 80408.0012  
Attorney/Secretary: FBC/mkd



The following has been received in the U.S. Patent and Trademark Office on the date stamped hereon:

- ☒ Transmittal Form (1 page)
- ☒ Fee Transmittal Form (1 page – in duplicate)
- ☒ Credit Card Payment Form (1 page)
- ☒ Request for Extension of Time and Response to Office Action (14 pages)
- ☒ Revocation of Power of Attorney (1 page)

FOR DATE STAMP REQUESTED



DOCKETED

~~Handwritten signature~~  
~~Handwritten signature~~



**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: \_\_\_\_\_

Application No./Patent No.: 09/657,181 Filed/Issue Date: September 7, 2000

Entitled: METHOD and DEVICE for MONITORING and ANALYZING SIGNALS

BLUE SPIKE, INC a CORPORATION  
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or  
2. ☐ an assignee of less than the entire right, title and interest  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %)

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 011365, Frame 0665, or for which a copy thereof is attached.

OR (ADD)  
B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From:  Moskowitz, Scott A.  To:  BLUE SPIKE, INC.   
The document was recorded in the United States Patent and Trademark Office at  
Reel 011365, Frame 0665, or for which a copy thereof is attached.
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The document was recorded in the United States Patent and Trademark Office at  
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3. From: \_\_\_\_\_ To: \_\_\_\_\_  
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☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Scott Moskowitz  
Signature  
SCOTT MOSKOWITZ

Printed or Typed Name

PRESIDENT  
Title

November 28, 2006  
Date  
(305) 956-9041  
Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Scott A. MOSKOWITZ et al.

Appl. No.: 09/657,181

Filed: September 7, 2000

Art Unit: 2857

Examiner: Carol S W TSAI

**MAIL STOP**

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22314-1450

Sir:

**Request to Proceed on Behalf of a Sole Assignee Under CFR § 3.73(b)**

Blue Spike, Inc., a Florida corporation, certifies that it is the sole assignee of the entire right, title, and interest in the above-identified patent application by virtue of a chain of title from the inventors of the above-identified patent, to the current assignee as follows:

The undersigned has reviewed all of the documents in the chain of title of the patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above. Attached herein are the following supporting documents: Verified Statement (Declaration) Claiming Small Entity Status; Original Declaration and Power of Attorney signed by Scott Moskowitz and Michael Berry; Assignment signed by Scott Moskowitz and Michael Berry; U.S. Patent & Trademark Office Notice of Recordation of Assignment Document (Recordation Date December 12, 2000, Reel/Frame 011365/0665). Blue Spike, Inc. continues to be the sole owner of all rights in the application. The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these

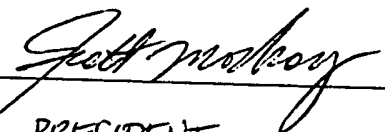
statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

BLUE SPIKE, INC.

Date: December 29, 2005

By



Title

PRESIDENT



<b>VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN</b>			<b>Docket No.</b> <b>066112.1032</b>
<b>Application No.</b> <b>09/657,181</b>	<b>Filing Date</b> <b>September 7, 2000</b>	<b>Patent No.</b>	<b>Issue Date</b>
<b>Applicant/ Patentee:</b> <b>Scott A. MOSKOWITZ et al.</b>			
<b>Invention:</b> <b>Method and Device For Monitoring and Analyzing Signals</b>			
<p>I hereby declare that I am:</p> <p><input type="checkbox"/> the owner of the small business concern identified below:</p> <p><input checked="" type="checkbox"/> an official of the small business concern empowered to act on behalf of the concern identified below:</p> <p><b>NAME OF CONCERN:</b> <u>Blue Spike, Inc.</u></p> <p><b>ADDRESS OF CONCERN:</b> <u>16711 Collins Avenue, #2505, Miami, Florida 33160 USA</u></p> <p>I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.</p> <p>I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above-identified invention described in:</p> <p><input type="checkbox"/> the specification filed herewith with title as listed above.</p> <p><input checked="" type="checkbox"/> the application identified above.</p> <p><input type="checkbox"/> the patent identified above.</p> <p>If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).</p>			

Each person, concern or organization to which I have assigned, granted, conveyed or licensed or am under an obligation under contract or law to assign, grant, convey or license any rights in the invention is listed below:

- ☐ No such person, concern or organization exists.
- ☐ Each such person, concern or organization is listed below.

FULL NAME

ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

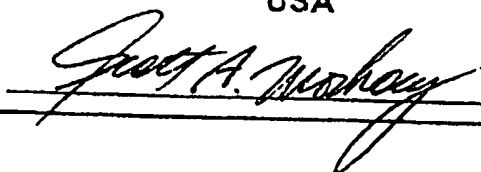
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Scott A. Moskowitz

TITLE OF PERSON SIGNING  
OTHER THAN OWNER: President

ADDRESS OF PERSON SIGNING: 16711 Collins Avenue, #2505  
Miami, FL 33160  
USA

SIGNATURE:


DATE: 11-20-00

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27(b)) - INDEPENDENT INVENTOR**

Docket No.  
**066112.0132**

Application No.

**09/657,181**

Filing Date

**September 7, 2000**

Patent No.

Issue Date

Applicant/  
Patentee:**Scott A. MOSKOWITZ et al.**

Invention:

**Method and Device for Monitoring and Analyzing Signals**

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled above and described in:

- ☐ the specification to be filed herewith.
- ☒ the application identified above.
- ☐ the patent identified above.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☐ No such person, concern or organization exists.
- ☒ Each such person, concern or organization is listed below.

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

FULL NAME

**Blue Spike, Inc.**

ADDRESS

**16711 Collins Avenue, #2505, Miami, Florida 33160 USA**☐ Individual☒ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

FULL NAME

ADDRESS

☐ Individual☐ Small Business Concern☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INVENTOR

Scott A. Moskowitz

SIGNATURE OF INVENTOR

*Scott A. Moskowitz*DATE: 11-20-00

NAME OF INVENTOR

Michael W. Berry

SIGNATURE OF INVENTOR

DATE: \_\_\_\_\_

NAME OF INVENTOR

SIGNATURE OF INVENTOR

DATE: \_\_\_\_\_

NAME OF INVENTOR

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SIGNATURE OF INVENTOR

DATE: \_\_\_\_\_

NAME OF INVENTOR

SIGNATURE OF INVENTOR

DATE: \_\_\_\_\_

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INVENTOR

Scott A. Moskowitz

SIGNATURE OF INVENTOR \_\_\_\_\_

DATE: \_\_\_\_\_

NAME OF INVENTOR

Michael W. BerrySIGNATURE OF INVENTOR DATE: 11/26/08

NAME OF INVENTOR \_\_\_\_\_

SIGNATURE OF INVENTOR \_\_\_\_\_

DATE: \_\_\_\_\_

NAME OF INVENTOR \_\_\_\_\_

SIGNATURE OF INVENTOR \_\_\_\_\_

DATE: \_\_\_\_\_

NAME OF INVENTOR \_\_\_\_\_

SIGNATURE OF INVENTOR \_\_\_\_\_

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SIGNATURE OF INVENTOR \_\_\_\_\_

DATE: \_\_\_\_\_

NAME OF INVENTOR \_\_\_\_\_

SIGNATURE OF INVENTOR \_\_\_\_\_

DATE: \_\_\_\_\_

# DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## METHOD AND DEVICE FOR MONITORING AND ANALYZING SIGNALS

the specification of which: ☐ is attached hereto.  
☒ was filed on: September 7, 2000  
as Application No.: 09/657,181  
and was amended on \_\_\_\_\_ (if applicable).

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

### Prior Foreign Application(s)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Country	Application Number	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

### Prior Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)

**Prior United States Application(s)**

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, as my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys, their registration numbers being listed after their names:

Rodger L. Tate, Registration No. 27,399; Anthony W. Shaw, Registration No. 30,104; James Remenick, Registration No. 36,902; Michael J. Songer, Reg. No. 39,841; Cono A. Carrano, Registration No. 39,623; Laurence H. Posorske, Registration No. 34,698; Floyd B. Chapman, Registration No. 40,555; David J. Kulik, Registration No. 36,576; Robert A. King, Registration No. 42,738; and Trevor Q. Coddington, Registration No. 46,633.

All correspondence and telephone communications should be addressed to: Intellectual Property Department; Brobeck, Phleger & Harrison LLP; 1333 H Street, N.W.; Suite 800; Washington, DC 20005, telephone number (202) 220-6000; facsimile number (202) 220-5200, which is also the address, telephone and facsimile numbers of each of the above listed attorneys.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature



Date 11-22-00

Full Name of  
First Inventor:

MOSKOWITZ  
(Family Name)

Scott  
(First Given Name)

A.  
(Second Given Name)

Citizenship: United States of America

Residence: 16711 Collins Avenue, #2505, Miami, Florida 33160 USA

Post Office  
Address: Same as above

Signature

\_\_\_\_\_

Date \_\_\_\_\_

Full Name of

Second Inventor: BERRY  
(Family Name)

Michael  
(First Given Name)

W.  
(Second Given Name)

Citizenship: United States of America

Residence: 12401 Princess Jeanne, Albuquerque, New Mexico, 87112 USA

Post Office  
Address: Same as above



Signature \_\_\_\_\_

Date \_\_\_\_\_

Full Name of  
First Inventor:

MOSKOWITZ  
(Family Name)

Scott  
(First Given Name)

A.  
(Second Given Name)

Citizenship: United States of America

Residence: 16711 Collins Avenue, #2505, Miami, Florida 33160 USA

Post Office  
Address: Same as above

Signature \_\_\_\_\_

Date 11/20/00

Full Name of

Second Inventor: BERRY

(Family Name)

Michael  
(First Given Name)

W.  
(Second Given Name)

Citizenship: United States of America

Residence: 12401 Princess Jeanne, Albuquerque, New Mexico, 87112 USA

Post Office  
Address: Same as above

# RECORDATION FORM COVER SHEET PATENTS ONLY

To the Honorable Commissioner for Patents: Please record the attached original document(s) or copy(ies) thereof.

1. Name of Conveying Party(ies):

Scott A. Moskowitz

Michael W. Berry

Additional name(s) of conveying party(ies) attached?

☐

Yes

☒

No

2. Name and Address of Party(ies) receiving an interest (assignee(s)):

Name: Blue Spike, Inc.

Name:

Address: 16711 Collins Avenue, #2505

Address:

Miami, Florida 33160

Country: USA

Country:

Additional name(s) and address(es) attached?

☐

Yes

☒

No

3. Nature of Conveyance:

☒

Assignment

☐

Merger

☐

Change of Name

☐

Verified Translation

☐

Security Agreement

☐

Other: \_\_\_\_\_

Execution Date: November 22, 2000 and November 29, 2000

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date(s) of the application is: \_\_\_\_\_

A. Patent Application No(s):

09/657,181

B. Patent No(s):

Others on additional sheet(s) attached?

☐

Yes

☒

No

5. Name and address of party to whom correspondence concerning document should be mailed:

Floyd B. Chapman  
Intellectual Property Department  
Brobeck, Phleger & Harrison LLP  
1333 H Street, N.W.  
Suite 800  
Washington, DC 20005  
(202) 220-6000 (telephone)  
(202) 220-5200 (facsimile)

6. Total number of applications and patents involved:

Application(s): 1

+ Patent(s): \_\_\_\_\_

= Total: \_\_\_\_\_

7. Total Fee (37 C.F.R. § 3.41) ..... \$ 40.00

☒

Enclosed

☐

Authorized to be charged to Deposit Account

8. Deposit Account No.: 50-1640

(Duplicate copy of this sheet attached)

☒

Charge any underpayment or credit any overpayment to above Deposit Account

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9. Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Floyd B. Chapman, Reg. No. 40,555

Name of Person Signing

Floyd B. Chapman

Signature

Dec 12, 2000

Date

Total number of pages including cover sheet, attachments, and document:

## ASSIGNMENT

WHEREAS, WE, Scott A. Moskowitz, residing at 16711 Collins Avenue, #2505, Miami, Florida, 33160, USA, and Michael W. Berry, 12401 Princess Jeanne, Albuquerque, New Mexico, 87112, USA, have invented certain new and useful improvements in and to the subject matter of:

### METHOD AND DEVICE FOR MONITORING AND ANALYZING SIGNALS

described in an application for United States Letters Patent filed on September 7, 2000, and accorded Application No. 09/657,181;

AND, WHEREAS, Blue Spike, Inc., a corporation organized under the laws of the State of Florida, having a place of business located at 16711 Collins Avenue, #2505, Miami, Florida, 33160, USA (hereinafter "ASSIGNEE"), is desirous of acquiring certain rights to the improvements and under the application;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) or the equivalent thereof, and other good and valuable consideration, receipt of which is hereby acknowledged, we do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, our entire right, title and interest in and throughout the United States of America (including its territories and dependencies) and all countries foreign thereto in and to said improvements, said United States application, any other United States applications, including provisional, divisional, renewal, substitute, continuation, reexamination and reissue applications, based in whole or in part on said United States application or in whole or in part on said improvements, any foreign applications, including international and regional applications, based in whole or in part on any of the aforesaid United States applications or in whole or in part on said improvements, and in and to any and all letters patent, including extensions thereof, of any country which have been or may be granted on any of the aforesaid applications or on said improvements or any parts thereof;

AND WE hereby authorize and request our attorneys, Brobeck, Phleger & Harrison LLP, whose address is 1333 H Street, N.W., Suite 800, Washington, DC 20005, to insert hereon any identification necessary or desirable for recordation of this document, including the filing date and application number of said application when known.

AND WE hereby agree for ourselves and our heirs, executors and administrators to execute without further consideration any further documents and instruments which may be necessary, lawful and proper in the prosecution of said above-referenced application or in the preparation or prosecution of any continuing, substitute, divisional, renewal, reexamination or reissue application or in any amendments, extensions or interference proceedings, or other applications for patents of any region or country, that may be necessary to secure to ASSIGNEE its interest and title in and to said improvements or any parts thereof, and in and to said several patents or any of them;

AND WE hereby covenant for ourselves and our legal representatives, and agree with said ASSIGNEE, its successors and assigns, that we have granted no right or license to make, use, sell or offer to sell said improvements, to anyone except said ASSIGNEE, that prior to the execution of this deed, our right, title and interest in said improvements had not been

otherwise encumbered, and that we have not and will not execute any instrument in conflict therewith;

AND WE do hereby authorize and request the United States Commissioner for Patents to issue any and all letters patent which may be granted upon said United States applications, or upon said improvements or any parts thereof when granted, to said ASSIGNEE.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

11-22-00  
Date

Scott A. Moskowitz  
Scott A. Moskowitz

County of DADE )

State of FLORIDA ) ss:

On this 22 day of NOVEMBER, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared SCOTT A. MOSKOWITZ to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

Eva VonStrehle  
Notary Public

My Commission Expires 2/9/2001  
Eva VonStrehle  
Notary Public, State of Florida  
Commission No. CC 619951  
My Commission Exp. 2/9/2001  
Bonded Through Fla. Notary Service & Bonding Co.

\_\_\_\_\_  
Date

Michael W. Berry

County of \_\_\_\_\_ )

State of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared \_\_\_\_\_ to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

BROBECK, PHLEGER & HARRISON LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1333 H STREET, N.W.  
SUITE 800  
WASHINGTON, D.C. 20005  
(202) 220-6000 (TELEPHONE)  
(202) 220-5200 (FACSIMILE)

otherwise encumbered, and that we have not and will not execute any instrument in conflict therewith;

AND WE do hereby authorize and request the United States Commissioner for Patents to issue any and all letters patent which may be granted upon said United States applications, or upon said improvements or any parts thereof when granted, to said ASSIGNEE.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Scott A. Moskowitz

County of \_\_\_\_\_ )

) ss:

State of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared ~~Michael Berry~~, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date

My Commission Expires \_\_\_\_\_

Michael W. Berry

County of BERNALILLO )

) ss:

State of New Mexico )

On this 29th day of November, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared Michael Berry, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.



OFFICIAL SEAL

April Wyant

NOTARY PUBLIC  
STATE OF NEW MEXICO

My Commission Expires: 3/24/2003

April Wyant  
Notary Public

My Commission Expires 3/24/2003

BROBECK, PHLEGER & HARRISON LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1333 H STREET, N.W.  
SUITE 800  
WASHINGTON, D.C. 20005  
(202) 220-6000 (TELEPHONE)  
(202) 220-5200 (FACSIMILE)

031838 7005  
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UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MARCH 07, 2001

PTAS  
BROBECK, PHLEGER & HARRISON LLP  
FLOYD B. CHAPMAN  
INTELLECTUAL PROPERTY DEPARTMENT  
1333 H STREET, N.W., SUITE 800  
WASHINGTON, DC 20005



\*101564649A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/12/2000

REEL/FRAME: 011365/0665  
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

MOSKOWITZ, SCOTT A.

DOC DATE: 11/22/2000

ASSIGNOR:

BERRY, MICHAEL W.

DOC DATE: 11/29/2000

ASSIGNEE:

BLUE SPIKE, INC.  
16711 COLLINS AVENUE, #2505  
MIAMI, FLORIDA 33160

SERIAL NUMBER: 09657181  
PATENT NUMBER:

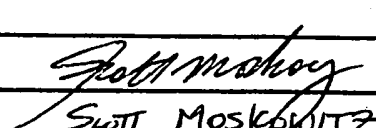
FILING DATE: 09/07/2000  
ISSUE DATE:


TONYA LEE, EXAMINER  
ASSIGNMENT DIVISION  
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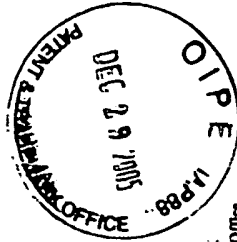
<b>TRANSMITTAL FORM</b>	Application Number	09/657,181	
	Filing Date	Sept. 7, 2000	
	First Named Inventor	SWATT A. MOSKOWITZ	
	Art Unit	2857	
	Examiner Name	Carol S.W. TSAI	
(to be used for all correspondence after initial filing)		Attorney Docket Number	066112.0132
Total Number of Pages in This Submission			

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks <p style="text-align: center;">Request to Proceed on Behalf of a SOLE ASSIGNEE UNDER CFR 3.73(b)</p>		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name		
Signature		
Printed name	SWATT MOSKOWITZ	
Date	12/29/2005	Reg. No.

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	SWATT MOSKOWITZ	Date 12/29/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



☒ BOX PATENT APPLICATION

FILED IN PTO ON DATE STAMPED HEREON

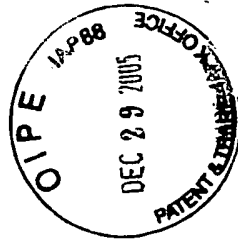
Filing Date:  
Applicant:  
Serial No.:  
Title:  
Docket No.:

September 7, 2000  
Scott MOSKOWITZ, et al.  
09/657,181  
Method and Device for Monitoring and Analyzing Signals  
# 066112.0132

The following has been received in the U.S. Patent and Trademark Office  
on the date stamped herein:

☒ ☒ ☒ ☒

Transmittal Form (1 page);  
Request under CFR 3.73 (b) (2 pages);  
Support Documents (14 pages);  
Stamped Return Receipt Postcard.



PTO DATE STAMP REQUESTED